

Making the real: rhetorical adduction and the Bangladesh liberation war

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Author: Joseph O'Mahoney

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Joseph O'Mahoney

Stanton Fellow, Security Studies Program, Massachusetts Institute of Technology, 2016-2017;
School of Diplomacy and International Relations, Seton Hall University.

joseph.omahoney@shu.edu

Making The Real: Rhetorical Adduction and the Bangladesh Liberation War

Joseph O'Mahoney

Abstract

Do normative arguments change what political actors do? If so, how? Rather than the pure force of abstract moral reasoning, states often try to move the locus of contestation to an arena in which they can make practical progress - the evidence, or the empirical facts in support of their argument. This paper analyzes the way states try to bolster their position first by constructing an argument in which an action represents part of their argument and then, second, by performing that action to make the argument seem more convincing. This mechanism I call rhetorical adduction. The paper challenges theories of communication that deny a causal role to the content of normative arguments and diverges from a leading view in the literature on argumentation that arguments have their effects through persuasion. The paper integrates strategic argumentation theory with theory from psychology of how people make choices based on compelling reasons rather than cost-benefit analysis, as well as theory from sociology of how people resolve morally complex situations through the performance of 'reality tests'. I illustrate the mechanism using a case from the Indo-Pakistani war of 1971. Initial resistance to recognizing the putative state of Bangladesh after India's invasion of East Pakistan was reversed due to an argument that Indian troop withdrawal meant that international norms were not violated.

In 1971, India invaded Pakistan and used the ensuing military victory to create a new state out of a large chunk of Pakistani territory. India's actions were widely criticized. For example, speaking to the UN Security Council, US Ambassador to the UN George Bush described the invasion as "force in violation of the United Nations Charter"¹ and speaking to the press on behalf of the US government he called it "aggression" against Pakistan.² A UN General Assembly resolution taking an anti-India position was passed overwhelmingly, 104 to 11.³ India, and others including the USSR, counterargued, claiming that India's use of force was a humanitarian intervention. Recognition of the proposed new state, called Bangladesh, was initially opposed and resisted, with reasons including that it would violate international law, that such recognition would "guarantee the fruits of aggression",⁴ and that the new state did not command enough loyalty. A request to invite representatives of Bangladesh to the Security Council was denied because a new state with the necessary criteria for recognition did not exist.⁵ Two proposed Security Council resolutions rejecting the transfer of political authority to Bangladesh were only defeated by a Soviet veto. Soviet-drafted resolutions including "recognition [of] the will of the East Pakistan population, as expressed, clearly and definitely, in ...elections" were rejected.⁶ However, despite this initial widespread condemnation, several months after the Indian invasion, dozens of states recognized Bangladesh and accepted it as a

¹ S/PV.1606, 194. Note: S/PV refers to the United Nations Security Council Official Record. Referenced with meeting and paragraph number.

² *New York Times*, 9 December 1971, 17.

³ With 10 abstentions: GA/RES/2793 XXVI.

⁴ S/PV.1608, 104

⁵ S/PV. 1613, 93, 134.

⁶ S/PV. 1608, 52

new member of the international community. How did states reconcile this contradiction? Why did states that initially firmly rejected giving authority to a new state in East Pakistan turnaround and recognize Bangladesh?

This puzzle is just one instance of international actors arguing over their actions and policies and those of their opponents. States often disagree about a policy that requires the consent or participation of the rest of the international community and so try to win over the undecided. As well as bribery and coercive threats, states try to make the policy seem useful, good, or legitimate.⁷ That is, they make normative arguments. Their goal is to make arguments that are as convincing as possible.⁸ Of course, at the same time, the opposing group of states is attempting the same thing. Arguments are met with counterarguments. But do such arguments have any influence on the overall outcome? Normative argumentation can be powerful but only if your version wins out over the opponents'. But what makes one argument better than another?

This paper answers this question with reference to a particular type of way that states try to win normative arguments. Rather than the pure force of abstract moral reasoning, states try to move the locus of contestation to an arena in which they can make practical progress – the evidence, or the empirical facts in support of their argument. It is not given by nature what facts are relevant to normative arguments and so there are two things states can do that might allow them to

⁷ This is the basis of the argumentation and rhetorical action literatures. See e.g. Risse 2000; Schimmelfennig 2001; Krebs and Jackson 2007; Bjola and Kornprobst 2011.

⁸ What makes an argument convincing may not conform to an abstract definition of rationality. See e.g. Kuhn 1991 for evidence that people change their minds on formally fallacious grounds, like the provision of a single example, mere elaboration of a possible causal pathway, or even pointing out the negative effects of a behavior as proof that it does not occur.

manipulate an audience's attitude towards a policy. First, states can reach into the intersubjective collection of ideas, symbols, and rhetorical commonplaces⁹ and link together some empirical fact and some part of their normative argument. In particular, they might be able to define the empirical fact such that it is the result of, or constituted by, an action that they can take. Second, they can take action to change the empirical situation so that it is congruent with their argument. Standard stories of manipulation include lying,¹⁰ deception,¹¹ and costly signaling,¹² but these are not the only ways of understanding what states can do. In particular, if you can remove or dilute objections to a policy by changing the normative status of that policy, then people will be less likely to oppose and more likely to support your preferred policy. One important influence on the acceptability of a normative argument is the extent to which the facts conform to the premises (explicit or implicit) of the argument. A central problem in international politics is, then, "How can you make your version of reality seem more real than your opponents?"

In this paper, I analyze the way states try to bolster their position first by constructing an argument in which a particular action represents or manifests part of the argument, and then, second, by performing that action to make the argument seem more convincing. This process I call *rhetorical adduction*.¹³

⁹ Crawford 2002; Krebs and Jackson 2007.

¹⁰ Mearsheimer 2010

¹¹ Reiter 2012

¹² Fearon 1997

¹³ Adduction is an act of adducing and to adduce something is to offer, cite, or provide it as evidence in support of an argument.

The paper challenges IR theories of communication that deny a causal role to the content of normative arguments. It also diverges from a leading view in the literature on argumentation and rhetorical action on how arguments have their effects and instead builds an alternative framework that integrates strategic argumentation theory from IR with theory from psychology of how people make choices based on compelling reasons rather than cost-benefit analysis, as well as theory from sociology of how people resolve morally complex situations through the performance of ‘reality tests’.

First, I review the literature on the role of communication in IR and in particular on how arguments are theorized to have effects on action, and then focus in on the debate over why some arguments are better than others. Next, I specify the form of the rhetorical adduction mechanism. In order to illustrate how rhetorical adduction works, I then explore the operation of the mechanism in a particularly important aspect of world politics; territorial integrity disputes. Specifically, I investigate the peacemaking process after the 1971 Indo-Pakistani war, or the Bangladesh Liberation War. I argue that the recognition of the new state of Bangladesh and the withdrawal of Indian troops from Bangladeshi territory were both driven by rhetorical adduction. States were not already inclined to recognize Bangladesh because of the intense political violence in East Pakistan, and recognition decisions were not uncontested and regularized applications of international law. Further, India’s withdrawal was not a result of high occupation costs (or the expectation thereof) or other Bangladeshi resistance. Instead, recognition was made possible by the argument that the withdrawal of Indian troops from Bangladesh meant that recognizing Bangladesh would not violate norms of non-aggression, self-determination, or the international legal norm of effective control of territory, and withdrawal was aimed at bolstering that argument.

How Do Arguments Have Their Effects?

The current literature on the role of argumentation can be divided into three parts according to the types of effects they allow arguments to have.¹⁴ The leading two approaches are based on a model of action in which actors have a set of preferences (complete and transitive). Rationalist models do not allow for arguments to change preferences (although they might reveal information that would change beliefs).¹⁵ Persuasionists allow for arguments to be causal, but believe that the only causally-relevant effect that arguments have is to change preferences. Finnemore and Sikkink define persuasion as the effective attempt by advocates to “change the utility functions of other players to reflect some new normative commitment.”¹⁶ Once changed, preferences interact with beliefs to produce action different from what would have happened without the argument. An influential example of persuasionism is Risse’s seminal account of the “logic of arguing”, a third alternative to strategic, utility-maximizing, action and rule-guided behavior. This involved actors engaging in “truth seeking with the aim of reaching a mutual understanding based on a reasoned consensus”.¹⁷ However, Risse’s account has several limitations. First, it cannot easily deal with rhetorical action, or the strategic use of argumentation and discourse. Following Habermas, Risse sees action as either strategic, in that preferences are fully defined and fixed and completely immune to any talk, or as arguing, where

¹⁴ In this review I focus in on only this one element of the literature. See Seymour 2014 for an alternative, more comprehensive, breakdown of the argumentation literature. An important point that I do not cover here is the distinction between an argument’s effect on action and its effect on the background collection of ideas, symbols, and rhetorical commonplaces.

¹⁵ For just one example addressing this particular point, see Goldsmith and Posner 2002.

¹⁶ Finnemore and Sikkink 1998, 914

¹⁷ Risse 2000, 1. See also Deitelhoff 2009

actors are willing to change their previous preferences because of the logical power of an argument. The contrast is between doing something because a more powerful actor coerces you to, and because you newly believe that this is the right thing to do. As Schimmelfennig and Mueller point out, however, this distinction is untenable, because rhetorical action is both strategic *and* concerned with argumentation.¹⁸ How can these be reconciled? One way that stays within Risse's framework is that rhetorical action can enlist both sincere agreement and also insincere acquiescence. Some actors who are under social pressure may not change their deeply held normative beliefs, or feel ashamed, but instead refrain from behavior intersubjectively constructed as illegitimate to the extent that they are concerned about their standing and reputation in the community. They might also want to leverage their reputation in later rhetorical contestation. The potential social fallout from rejecting what you think seems *to other people* a reasonable argument could have constraining or motivating effects.¹⁹

For Risse, the crucial distinction between rhetorical and communicative action is whether the arguers are willing to change their minds or be persuaded.²⁰ This he defines in terms of changing "interests" or "views of the world" due to the better argument where considerations of power and hierarchy are absent. However, the second limitation of a standard persuasionist account is that this ignores the numerous ways that people's attitudes can be influenced through 'irrational' means. Risse himself uses several examples as instances of communicative action that undercut his definition. One is that actors with "authoritative knowledge or moral authority" will be more

¹⁸ Schimmelfennig 2001, 65; Mueller 2004, 414

¹⁹ Hanrieder 2011, 392

²⁰ He defines arguing as a situation in which all speakers are open to be persuaded by the better argument (Risse 2004, 294).

convincing to an audience than actors with known private interests.²¹ If this is true, it is not due to a logical property of the better argument. The non-logical element to the superior convincingness of an argument is an example of a whole class of influences on argumentation that is absent from Risse's schema. An alternative strand of the argumentation literature,²² as well as the strategic framing literature²³ allows for a variety of effects of discourse.

The third problem with a persuasionist account is the implicitly binary nature of the effect of argumentation. At time t_1 , A prefers x over y. Then argumentation occurs. Finally, at time t_2 , A prefers y over x. This kind of attitude change is only one possible effect of argumentation. However, various other possible effects have been identified. For example, Benford and Snow identify three framing-tasks; diagnostic framing for the identification of a problem and assignment of blame, prognostic framing to suggest solutions to a problem or strategies to pursue, and motivational framing that provides a rationale or call to action.²⁴ A particular type of effect is that argumentation can *change the normative status* of an action. Actors vary in how much they care about normative statuses as well as any particular normative status. Normative status is not necessarily binary, such as good or bad. Instead, an act can vary from despicable through distasteful, to neutral, and then to admirable and heroic. It can also range from forbidden, through frowned upon and excused to permitted, and then to obligatory. Pushing in line has a different normative status from murder, though both are norm violations. Another important type of normative status is the difference between a clear violation and an excused exception, for

²¹ Risse 2000, 22

²² E.g. Krebs and Jackson 2007; Bjola and Kornprobst 2011; Seymour 2014.

²³ e.g. Sell and Prakash 2004; Busby 2007

²⁴ Benford and Snow 2000, 615.

example murder and killing in self-defense. When an act appears to potentially represent a norm violation, actors attempt to justify it, both to themselves and to outside audiences. As Shannon explains, this difference often hinges on “one's ability to define a situation in a way that allows socially accepted violation.”²⁵

Fourthly, persuasionism follows rationalism in assuming what Slovic calls “stable, well-articulated preferences”,²⁶ that is, clearly defined prior preferences over outcomes (i.e. completeness of preferences). Sometimes, people do have preferences that are clear and do not change over time. In such cases, argumentation and framing will probably have relatively little effect. However, in other situations, people do not have complete preferences over outcomes. For example, they might have conflicting values, like the tradeoff between the cheapest, the most convenient, and the best quality option, making an overall valuation impossible. Also, their preferences may be different over time, even very short intervals. One set of findings from psychology is that preferences “are frequently constructed in the moment and are susceptible to fleeting situational factors”.²⁷ The extent to which preferences in general are stable and complete is an area of ongoing research, but in any particular situation, the less clearly formed and immutable preferences are, the more likely it is that argumentation has a causal effect on action.

Reason-based Choice

²⁵ Shannon 2000, 300

²⁶ Slovic 1995

²⁷ Ariely and Norton 2008, 13. For accounts of psychological research in IR, see Goldgeier and Tetlock 2001 and Shannon and Kowert 2011.

What is the nature of this causal effect if it is not changing the preferences of actors from $x > y$ to $y > x$? A prominent alternative to a value-based model of action (like expected utility theory or prospect theory) is reason-based choice.²⁸ A value-based model specifies how much an actor values the alternatives along a single dimension, like utility. This type of model explains a choice with reference to its having the highest value.²⁹ By contrast, a reason-based choice analysis identifies a variety of reasons for and against the various alternatives and explains a choice with reference to the balance of those reasons. People choose an alternative because they can provide “a compelling argument for choice that can be used to justify the decision to oneself as well as to others”.³⁰

Reason-based choice accords far more strongly with our intuitive ideas about how we reason and make choices. When we normally think and talk about making choices, we consider and present reasons why an option would be better as well as reasons why an option would be worse. This idea is prominent in the international law literature as well as being present in IR.³¹ Also, the fact that individuals can be conflicted in decision making is more consistent with conflicting reasons being hard to reconcile than it is with actors having clear ideas about their ordering of the options.

Further, many empirically established violations of features of rationality can be easily accommodated in a reason-based framework. One such feature is procedure invariance, or the

²⁸ Shafir et al 1993; McDermott 2001, 18-26

²⁹ An emerging trend in cognitive science is towards ‘comparison-only’ findings where the brain does not calculate value at all. For a review see Vlaev et al 2011.

³⁰ Tversky et al 1988, 372

³¹ See Johnstone 2003 for a statement of the role ‘justificatory discourses’ play in international law.

idea that preferences over options are independent of the method used to elicit them. Shafir et al point out that notable features provide compelling reasons for the decision; “reasons for choosing are more compelling when we choose than when we reject, and reasons for rejecting matter more when we reject than when we choose”.³²

Other violations of rationality that can be accommodated in a reason-based choice framework are the sunk-cost fallacy, preference inversion, framing effects, loss aversion, the endowment effect, status-quo bias, attribute balance, feature creep, and the disjunction effect among others.³³ The importance of reasons for decision making is increased when the decision maker has to justify a decision to others.³⁴ Such situations are rife in international politics. The inability of standard rational choice theory to account for the role of reasons in decision making has prompted attempts at formalizing preference formation and change in terms of the basket of reasons that are motivationally salient.³⁵

A reason-based choice model of action can provide a way for rhetorical argumentation to be causally relevant with respect to choice of action. If actors do not have complete, stable preferences over the options presented, an argument can “highlight different aspects of the options and bring forth different reasons and considerations that influence decision”.³⁶ In choice situations where either preferences are nonexistent or inchoate, or no option dominates (i.e. each

³² Shafir et al 1993, 18

³³ For a review see Mercier and Sperber 2011, 70-1

³⁴ Simonson 1989

³⁵ Dietrich and List 2011, Dietrich and List 2013

³⁶ Shafir et al 1993, 34

option is highest on at least one attribute), an argument could provide a hitherto nonsalient reason for or against an option.

This shows that it is not necessary for anyone to “change their mind” for rhetorical arguments to have a causal effect on action. Actors can engage in strategic rhetorical action while also being involuntarily susceptible to the, sometimes subconscious, effects of argumentation. One type of effect can be to change the normative status of an action or situation.

Rhetorical action matters more when there is a third-party audience who are undecided or whose conception of the meaning of a situation is not fixed, or whose support is up for grabs in some way. Krebs and Jackson have elaborated a general model of rhetorical action that incorporates the role of this audience.³⁷ In this model, two actors are arguing over a policy and a third actor, the audience, is crucial to the success of this policy. The two arguers (the claimant and the opposition) engage in rhetorical contestation to win over the audience. Whichever actor is more successful in this rhetorical contestation is rewarded with more or less support or resistance for the policy in question. Rhetorical coercion occurs when one actor is forced to stop arguing against or even to advocate for a policy. Rhetorical coercion is possible because actors need to justify their behavior to each other and because these justifications are constrained (e.g. by the limits of intersubjectively shared discourse).

Say there is a policy p which has a set of reasons in favor and also a set of reasons against or objections o_1, o_2, \dots, o_n , such that the audience does not have a clear stable preference over whether the policy is enacted or not. If the audience finds a potential objection o_i compelling in

³⁷ Krebs and Jackson 2007.

some way, the audience resists the action.³⁸ Argumentation can be used to remove an objection by altering the normative status of the policy. A common example of removing an objection is by changing the normative status from a clear violation of a norm to an excused exception to the norm. The argument is then causally relevant to the action in the case that the action would not have occurred in the face of resistance by the audience, *ceteris paribus*. Here, removing an objection does not mean that policies of the same type as *p* are forever believed to be morally right by everyone. All that it means is that resistance to policy *p* is reduced or eliminated in this particular case. This conception of the effect of argumentation allows that an argument can be successful at removing an objection and yet have no impact on behavior because the balance of reasons is still heavily one-sided. The recognition of Bangladesh is an especially good case to observe the effect of argumentation on behavior because the reasons for and against were relatively evenly balanced.

As Kornprobst notes, there can be different levels of support for, or a lack of resistance to, a policy. He identifies acquiescence, compromise, and consensus.³⁹ Acquiescence is the weakest; people simply acquiesce with a dominant argument but they are not convinced. Compromise involves people who are not convinced but actively agree to mutual concessions as long as they do not violate their deepest-held beliefs. Consensus, the strongest, is when actors both publicly agree with and internally believe in the policy. These are differing levels of support for a policy. Resistance to a policy similarly varies. People could simply refuse to support the policy, effectively doing nothing. They could grudgingly adopt the policy while still challenging its justification. They might both reject the policy and argue against it. At the extreme, they could

³⁸ See below for a discussion of differing levels of resistance to action.

³⁹ Kornprobst 2014, 197

reject the policy and actively take steps to try and reverse it. When a policy's success is dependent upon the attitudes and actions of an audience group of states, altering the level of support or resistance to that policy is an important goal of both the claimant and opposition groups.⁴⁰

What Makes For a Better Argument?

If argumentation can have these effects, what is it that determines which arguments are successful and which fail? The existing literature has some suggestions. For Krebs and Jackson, as in many accounts of rhetorical action (and framing and securitization⁴¹), the public's, or audience's, acceptance or rejection of the framing or implications of the arguments deployed by a claimant is central. The audience serves as the adjudicator of the "better argument".⁴² Krebs and Jackson largely bracket the question of why a public finds an argument acceptable. But it seems reasonable that there are multiple influences on a public's acceptance or rejection of an argument. One of these influences, they posit, is the limits on creating or formulating the basic building blocks of argumentation, rhetorical commonplaces; "they are not free to deploy utterly alien formulations in the course of contestation; such arguments would fall... on deaf ears."⁴³ This is not the only conceivable limitation. Some writers have looked to features of the

⁴⁰ In the same way that inquiring into the genesis of actor preferences is a separate endeavor in rationalist analyses, the source of an audience's "willingness to accept" is a separate research task from analyzing effects on argumentation and behavior.

⁴¹ Watson 2012, 284-5

⁴² See also Ulbert and Risse 2005, 353

⁴³ Krebs and Jackson 2007, 45

normative ideas themselves,⁴⁴ or to a comparison with some sort of ideal to try and explain why audiences find some arguments more acceptable than others. For example, Elster posits that the appearance of impartiality and consistency is a crucial factor, going so far as to appeal to a “civilizing force of hypocrisy”.⁴⁵

A seemingly obvious factor is the role of evidence. The argument of this paper relies upon the idea that empirical evidence supporting an argument makes that argument more convincing. This seems uncontroversial⁴⁶ and is the foundation of the rationalist literature on communication. For rationalists, effective communication takes the form of costly signaling⁴⁷ or cheap talk⁴⁸ and is evaluated on those terms. However, even though these are important and useful ideas, they are at best incomplete. Even costly signals require interpretation. For example, whether a costly signal can change beliefs requires that “there is objective and uncontested knowledge, shared among sender and receiver, about what costs mean to either”.⁴⁹ Jervis makes the point that: “Actions are not automatically less ambiguous than words. Indeed, without an accompanying message, it may be impossible for the perceiving actor to determine what image the other is trying to project.”⁵⁰ Further, with many political phenomena, communication is complicated by the ubiquity of essentially contested concepts. An issue with some existing work is the stark

⁴⁴ e.g. Risse et al 1999 suggest that norms dealing with physical injury are more appealing than other types of norms.

⁴⁵ Elster 1998

⁴⁶ Nyhan and Reifler, 2010, would disagree as they find that, for the politically engaged, evidence correcting a misperception actually increases the misperception rather than overturning it.

⁴⁷ e.g. Schelling 1960; Fearon 1997

⁴⁸ e.g. Sartori 2005

⁴⁹ Mueller 2004, 398

⁵⁰ Jervis 1971, 19

distinction usually drawn between “signaling facts” and “entering a moral discourse”.⁵¹ While it is reasonable to draw this distinction in the abstract, people in practice often experience moral discourse as an indistinguishable part of empirical discourse. In particular, people often see moral judgments as resting definitively on empirical facts. However, despite their importance to decision-making, it is not clear what the empirical referent of concepts like “democracy”, “corruption”, “genocide”, “terrorism”, or “aggression” are.⁵² Further, social norms, rules, and institutions have an “open texture” in the sense that they refer to classes of persons and classes of acts, things and circumstances and as such it is uncertain whether and how they apply “in particular concrete cases”.⁵³ In order to come to a judgment on whether an action or actor has a property, like that of being-democratic, or being-genocide, or being-the-product-of-self-determination, people use shorthand indicators. As Hanrieder points out,⁵⁴ morally complex situations are resolved through the performance of “critical tests” which rely on some performance, including actions or reference to symbols. Boltanski and Thevenot note that normative reasoning does not often take the ideal form represented in philosophy journals in which reasoning over the empirical situation and the normative situation are kept strictly separate. Instead, in practice people resolve contests over normative concepts (like the legitimacy of an action or whether an act or a situation is an instance of a norm) by pointing to particular empirical facts as determinative of normative conclusions. In conditions of ambiguity and

⁵¹ for example, Mueller 2004, 400

⁵² We could go further and say that there is no truth of the matter, except in terms of what humans do in practice treat as instances of these concepts (Searle 2010).

⁵³ Hart 1994, 123-4

⁵⁴ Hanrieder 2011

uncertainty, such as a contestation over legitimacy, people rely on “reality tests”⁵⁵ in which judgments about the fluid and plastic social world rest on “the factual nature of the elements that have been invoked”.⁵⁶ For example, when reacting to a police officer’s killing of a suspect, people might rest their moral judgment solely on whether the suspect was armed or unarmed, or who shot first, despite this only being one small part of the possible complex normative argumentation we could build around this question. Similarly, Mor mentions how important the “provision of some new facts (selected and presented with a certain interpretation in mind)” is for the process of legitimation and counter-legitimation that affects external support for an actor’s position.⁵⁷ In the framing literature, “empirical credibility”⁵⁸ is a constraint on framing events. The issue is not whether “claims are factual or valid, but whether their empirical referents lend themselves to being perceived as ‘real’ indicators of the diagnostic claims.”⁵⁹

So, a normative argument can be better if it makes a normative label more convincing through referring to some fact about the situation. But what facts are relevant or influential? Actors are not able to say anything they like and have an audience accept their formulation. If there are rules governing the type of situation, those rules specify relevant facts. But even when rules are

⁵⁵ Boltanski and Thevenot 1999, 367

⁵⁶ Boltanski and Thevenot 2006, 133. The term “facts” here refers to claims about the world that are relatively objective, such as existential claims about physical objects, as opposed to interpretations of those facts. For example, the concept of permission is crucial to whether some action is treated as theft, trespassing, a violation of sovereignty, sexual assault, and so on. Whether someone is judged to have permission often depends on reference to a particular empirical fact, like whether a piece of paper has been signed or whether a sign was displayed.

⁵⁷ Mor 2012, 407.

⁵⁸ Benford and Snow 2000. See also Snow et al 1986.

⁵⁹ Benford 2011, 72

precise and comprehensive, there is inevitably a judgment made on whether a particular case counts as an instance of the general categories referred to in the rules. Those judgments are made with reference to an intersubjectively-defined collection of characteristics. What matters is not the truth of the matter but the socially defined markers of what counts. This idea is related to the concept of a “practice” or a competent performance of a socially recognized pattern of behavior,⁶⁰ and is linked to the theme in the argumentation literature that arguments have to be anchored in something that is widely taken-for-granted, or rhetorical commonplaces, in order for them to make sense and be convincing.⁶¹ One example comes from the procedure for obtaining US resident alien status via spousal application (a “green card”). A vital element is whether the relationship between the petitioner and spouse conforms to the practice of a “bona fide marriage” according to the United States Citizenship and Immigration Services, including whether there are any “Discrepancies in statements on questions for which a husband and wife should have common knowledge”.⁶² A competent performance of a “bona fide marriage” here relies upon conforming to a set of socially-defined or intersubjective characteristics.

To summarize, contra rationalist or persuasionist claims, arguments can have effects by providing reasons for or against a policy, especially when the support of a third-party audience is up for grabs. These effects include changing the normative status of an action, such as from a norm violation to an excused exception. Normative arguments can be made more convincing

⁶⁰ Adler and Pouliot 2011

⁶¹ Crawford 2002; Krebs and Jackson 2007.

⁶² United States Citizenship and Immigration Services, Adjudicator’s Field Manual, Chapter 21.3 section (a) paragraph (2) Adjudication Issues, subparagraph (h) Interviewing petitioner and spouse, <<http://www.uscis.gov/iframe/ilink/docView/AFM/HTML/AFM/0-0-0-1.html>>

when they are anchored in empirical evidence, such as the actions of the parties, but this evidence is only effective when it is rhetorically linked to the argument. If an action conforms to some intersubjectively defined criteria, i.e. is a competent performance, it is more likely to be accepted. These ideas together suggest a mechanism whereby actors can use actions to bolster normative arguments. I call this mechanism “rhetorical adduction”.

Rhetorical Adduction

Rhetorical adduction is the process by which states try to raise support for their position first by constructing an argument in which a particular action represents part of an argument, and then, second, by performing that action to make the argument seem more convincing. Here I lay out a schematic account of the process. See Figure 1 for a representation of the process.

FIGURE 1 HERE

Two groups of states have a dispute over a policy whose success depends in some way on the actions of a third group of states uncommitted or undecided about the policy. For simplicity, the policy could take one of two values; it could either be enacted or not. The group of states that wants the policy enacted is denoted C, the *claimant*. The group of states that does not want the policy enacted is denoted O, the *opposition*. The undecided group of states is denoted P, the *public* or *audience*, which can either resist or support the policy (or at least acquiesce in its enactment). O makes an argument. This argument raises an objection to the policy that involves a claim that the policy is illegitimate because it has property X. C then makes a counterargument,

in which C claims that the policy does not have property X and that instead the policy has property Y, which means that it is not illegitimate. Further, the counterargument specifies some action, A, that demonstrates that the policy has property Y. C then performs action A. P then supports the policy.

What does rhetorical adduction consist of in this process? First, the counterargument that the policy has a property that means it is not illegitimate, including the claim that a particular action means that the policy has that property (the ‘rhetorical’ part). The second part of rhetorical adduction is actually performing that action as ‘proof’ that the policy has the property (the ‘adduction’ part).

At several points in this process, it may get derailed. O may not, or may not be able to, make an argument. C may not, or may not be able to, concoct a counterargument that makes sense. C may then not be able to perform the action. Even if it is performed, it may not be convincing to the audience, which may then decide not to support the policy.

An ideal-type of the underlying structure of the argumentation involved in rhetorical adduction is the following:⁶³

- 1) Policy *p* has property X.
- 2) If a policy has property X, it is illegitimate.

⁶³ Despite this ideal-typical representation, in practice people often do not conform to formal logical rules. Toulmin 2005 identifies parts of argument that people do in fact use and defines *warrants* or “inference-licenses” that authorize a move from data to claim, and *backing*, which serves to support or justify the warrants. Rhetorical adduction includes the provision of warrants in that it involves linking some proposed data with a claim about the policy at issue, and the provision of backing for those warrants through performing an action that supports the warrant.

2*) Thus, p is illegitimate.

The argument being made by O, the opposition to the policy at stake, is that because policy p has property X, it is illegitimate (1,2, \rightarrow 2*).

3) A policy cannot have both property X and property Y.

4) Policy p has property Y.

5) Thus, policy p does not have property X.

5*) Thus, policy p does not have property Y.

6) Thus, 2* is false.

The counterargument being made by the claimant C is that the policy has property Y and that, because a policy cannot have both X and Y, the policy does not have X and thus is not illegitimate (3, 4, \rightarrow 5, \rightarrow 6). Crucially, the audience has to resolve the contradiction between 1, 3 and 4 in favor of conclusion 5 rather than 5*. Part of rhetorical adduction is making it so that 4 is more plausible than 1 (7, 8, \rightarrow 4).

7) If Z, then policy p has property Y

8) Z

Here Z is some fact with an empirical referent, such as an action. For intuitiveness, an everyday example might be a situation in which a faction in a university department wants to hire an inside candidate, but they are opposed by another department faction, on the basis that this would be illegitimate. Possible arguments might be that this would be nepotism, or that they might not be the best candidate. The first faction then argues that if they run a standard search, the result of that search would not be nepotism and would be the best of available candidates, and hence be

legitimate. The department runs the search, and then selects the inside candidate. The central administration then acquiesces to this decision.

Applying the Model: Indian Intervention in Pakistan and the Recognition of Bangladesh

In order to demonstrate how the rhetorical adduction model explains behavior, I now apply the model to the peacemaking process at the end of the Indo-Pakistani war of 1971. In particular, I use the model to explain both why India withdrew its troops from East Pakistan / Bangladesh so quickly after defeating West Pakistani forces, and why states that initially opposed India's actions and the creation of a new state ended up recognizing Bangladesh.

I argue that the recognition of the new state of Bangladesh was made possible by rhetorical adduction. That is, an argument was made that the proposed withdrawal of Indian troops from Bangladesh meant that recognizing Bangladesh would not violate norms of non-aggression, self-determination, or the international legal norm of effective control of territory. Indian troops were withdrawn from Bangladesh to bolster these arguments. Some states recognized Bangladesh because the Indian agreement to withdraw and then actual withdrawal of troops removed their objections to recognition. By contrast, states were not predisposed to recognize Bangladesh because of the mass killing of Bengalis, nor were they simply applying the international law of sovereignty to the situation. In addition, India did not withdraw troops because they experienced or anticipated high occupation costs.

After laying out relevant historical context, I define observable implications before showing how the evidence is in favor of rhetorical adduction and not the alternative explanations. I use theory-

building process-tracing, in which I use evidence from a single case to infer the existence of an analytically general mechanism.⁶⁴ The case thus constitutes a plausibility probe.

Historical Context

Three themes of the historical context were relevant to the argumentation over recognition.⁶⁵

First, was the putative Bangladeshi state a result of self-determination? Second, what was the attitude of the international community to India's use of force? And third, what was the attitude of decision-makers in other states towards a potential new state of Bangladesh?

The feature most relevant to the question of self-determination for Bangladesh was the democratic elections held in Pakistan in December 1970, its first since independence from Britain and partition from India in 1947. Sheikh Mujib-ur Rahman's Bengali nationalist party, the Awami League, won an overall majority of seats in the parliament (including both East and West Pakistan). However, the League was prevented from forming a Pakistani government by Zulfikar Ali Bhutto, leader of the Pakistan People's Party, which had won a majority of the seats from West Pakistan, and the previous leader, President General Yahya Khan. A violent crackdown on Bengali political opposition by West Pakistani armed forces starting in March 1971 left hundreds of thousands dead⁶⁶ and included the incarceration of Sheikh Mujib. This resulted in a massive outpouring of refugees across the border into Indian Bengal. In April, the Awami League issued a declaration of independence that was initially ignored internationally.

⁶⁴ Beach and Pedersen 2013.

⁶⁵ See Raghavan 2013 for the most recent and well documented study of the 1971 conflict.

⁶⁶ Fatality estimates vary widely.

India's intervention into East Pakistan was widely criticized. Soon after the violence began, the amount of refugees fleeing to India was being estimated to be in the millions and Prime Minister Indira Gandhi decided on a military intervention into East Pakistan.⁶⁷ In October, the Indian army began launching attacks and holding territory inside East Pakistan.⁶⁸ India declared war on Pakistan on 3 December, citing self-defense against Pakistani air attacks. However, India was widely treated as the initiator of cross-border violence. Bhutto, the new President of West Pakistan, argued that a USSR-proposed Security Council resolution transferring sovereignty to Bangladesh meant legitimizing aggression:

This is gunboat diplomacy in its worst form. It makes the Hitlerite aggression pale into insignificance, because Hitlerite aggression was not accepted by the world.⁶⁹

Impose any decision, have a treaty worse than the Treaty of Versailles, legalize aggression, legalize occupation, legalize everything that has been illegal up to 15 December 1971. I will not be a party to it.⁷⁰

Similar sentiments were expressed by some other states and the resolution was not adopted.

Other UNSC resolutions that merely called for a cease-fire and a withdrawal to internationally recognized borders but that pointedly excluded the transferal of political authority to the Awami League and Bangladesh were vetoed by the USSR. This stalemate in the Security Council led to

⁶⁷ Kux 1993, 290

⁶⁸ Sisson and Rose 1990, 213

⁶⁹ S/PV. 1614, 74.

⁷⁰ S/PV. 1614, 84. Bhutto made this same argument in private, bilateral exchanges, for example with UK Prime Minister Edward Heath, "...this will be the first instance of Britain accepting and endorsing the dismemberment of a Commonwealth country achieved through aggression. ... The intended recognition of "Bangladesh" by Britain would ... put a seal of respectability to an aggression against a Commonwealth country and set a dangerous precedent for the future" (letter 19 January 1972, PREM 15/751 Premier's Archives, (PREM). Referenced with the piece reference.).

the transfer of the issue to the General Assembly and subsequently the near-unanimous (104 to 11 with 10 abstentions) General Assembly resolution 2793, which duplicated the resolutions vetoed by the USSR. Indian military success continued as the USSR vetoed another UNSC resolution on 13 December and the next day, Pakistani forces in East Pakistan proposed a cease-fire, which India accepted. However, after the end of hostilities, India's victory was not immediately accepted and normalized by those states who had been so vociferously denouncing the invasion only days before. As Henry Kissinger said to US President Richard Nixon, "The Indians are demanding the UN agree for the turnover of authority to the Bangla Desh. Now that would make the UN an active participant in aggression. I don't think we can agree to this."⁷¹

Before and during the war between India and Pakistan, no states had a clear preference for the existence of a new "Bangla Desh" state (apart from the belligerents). Based on Indian governmental and personal papers, Bass recounts the efforts of Gandhi, P. N. Haksar, Principal Secretary to the President, and Indian diplomats in a global appeal for help. Initially appealing to sixty-one countries, the Indians tried to publicize what they called the genocide against the Bengalis. External Affairs Minister Swaran Singh personally visited numerous foreign capitals in June 1971, Education Minister Siddhartha Shankar Ray toured Asia, and Home Affairs Minister K. C. Pant traveled around Latin America, all asking for help with the refugee problem and specifically asking for recognition of Bangla Desh. No states agreed to recognize, and only a few even made public statements of sympathy or support. Bass describes the whole enterprise as "crushingly disappointing".⁷² Even the Soviet Union, publicly supportive of both India and

⁷¹ FRUS 1969-1976 XI: 315. Foreign Relations of the United States (FRUS). Referenced with the year and volume number, followed by the document number.

⁷² Bass 2013, 136-141.

Bangladesh throughout the crisis, resisted. Alexei Kosygin, Soviet Premier, privately urged D. P. Dhar, Indian Ambassador to Moscow, to avoid war with Pakistan, and subsequently told Singh not to recognize Bangladesh.⁷³ What this indicates is that most states were against recognition before the war, or at the very least were unclear about whether they wanted to recognize Bangladesh. In a memorable episode, Mexico's president had so little idea about the situation that he refused to believe that West and East Pakistan were so far apart until an atlas was fetched, at which point he said, "By God, it's really so".⁷⁴

Apart from India and Bhutan, no states recognized Bangladesh before 11 January 1972, even after the end of hostilities on 14 December. Between 11 January and 14 February 1972, 36 states recognized Bangladesh, including the UK and 9 others on 4 February (See Figure 2). The US did not recognize Bangladesh until 4 April. Bangladesh applied for UN membership later that year, but a UNSC resolution admitting the new state was vetoed by China in August. Bangladesh was not admitted to the UN until 1974.

FIGURE 2 HERE

The Role of Troop Withdrawal

After Sheikh Mujib was released from captivity in West Pakistan, he travelled to London where, in a meeting on 8 January 1972, the British government impressed upon him the importance of

⁷³ Bass 2013, 136, 138.

⁷⁴ Bass 2013, 139.

Indian troop withdrawal for the recognition of Bangladesh.⁷⁵ However, the connection between these two things was not immediately apparent. For example, UK Ambassador to Turkey Roderick Sarell reported that the senior members of the Turkish foreign policy establishment had agreed to not recognize Bangladesh only after the Indian troop presence in Bangladesh was presented to them as an issue and a barrier to recognition.⁷⁶ Similarly, the Sri Lankan (Ceylonese) government asked “Whether Mujib has stated publicly that Mrs Gandhi has agreed to withdraw Indian forces on his request”, but only after having it explained to them that withdrawal was relevant to recognition.⁷⁷ Mujib and members of the Indian government insisted that Indian troops were only in Bangladesh at the request of the Bangladeshi administration and Gandhi and Mujib jointly declared on 8 February 1972 that India would withdraw all its troops from Bangladesh by 25 March.⁷⁸ Mujib in fact declared that all troops were withdrawn on 13 March.⁷⁹

There were three arguments to which Indian troop withdrawal was crucially linked. First, withdrawal meant that the Indian military intervention did not count as aggression, or was an excused exception to the general rule, so recognizing the fruits of that intervention did not count as legitimizing aggression. This might sound counterintuitive; an aggression is not undone if the perpetrator withdraws afterwards.⁸⁰ However, the case was made that a key characteristic of

⁷⁵ PREM 15/751.

⁷⁶ FCO 37/1020. FCO refers to the Foreign and Commonwealth Offices Archives. Referenced with the piece reference.

⁷⁷ Cable from Mackintosh 25 January 1972, FCO 37/1020

⁷⁸ *New York Times*, 9 February 1972, 9.

⁷⁹ *New York Times*, 13 March 1972, 7.

⁸⁰ I thank an anonymous reviewer for raising this point.

aggression or a war of conquest was the desire to annex or occupy territory, and withdrawal indicated that India had no desire to do so. So, the invasion was in effect recast as an excused exception to the rule against the use of force. Analogously, whether taking an object counts as theft or borrowing depends on whether it is given back. Second, withdrawal was also claimed to mean that the creation of the state of Bangladesh was an act of self-determination. Third, and finally, the conventional international legal criteria for recognition included “effective control of territory” and so recognition was not impeded by being illegal. There was no question that Indian troops had crossed the border into East Pakistan. The issue to be resolved was whether this counted as aggression, or whether the presence of Indian troops meant that the nascent Bangladesh government did not enjoy popular support.

So, in terms of the rhetorical adduction model (see Figure 3), the *policy* at stake is the recognition of Bangladesh. The *claimant* is the Mujib administration, India, and other states like the UK who want Bangladesh to be recognized. The *opposition* are Bhutto and the West Pakistan leadership, as well as China. The opposition charge that recognition is illegitimate because it has the following properties: a) it would mean approving of aggression; b) the Mujib government does not enjoy popular support; and c) the Mujib government does not and cannot control the territory of East Pakistan. The claimant *counterargument* is that if India withdraws her troops, then recognition will no longer imply approval of aggression, and the Mujib government can be said to both enjoy popular support and control its territory.

Note that I do not provide a complete account of the decisions to recognize Bangladesh, which were multifaceted.⁸¹ The relevant claim here is that there were potential objections or sources of

⁸¹ That would be the goal of explaining outcomes process-tracing (Beach and Pedersen 2013).

resistance to the recognition policy that were removed by rhetorical adduction. In the Bangladesh case, the sole remaining objections were removed and so rhetorical adduction made the difference between policy adoption and non-adoption. Two counterfactual scenarios are the following:

Counterfactual: What if the UK, India, and others had not argued that withdrawal excused the Indian invasion and legitimated the Bangladesh state?

Counterfactually, if the UK and others had not fixed upon Indian withdrawal of troops as an indicator of the legitimacy of the use of force by India, and of the Mujib regime, then there would have been no reason for India to withdraw troops. Prior discussions between India and Bangladesh involved an Indian military presence (see below).

Counterfactual: What if India had not withdrawn troops?

In a counterfactual world where India did not withdraw troops, resistance to the recognition policy would have been higher and some states would not have recognized Bangladesh.

Observable Implications

The claim here is that the policy of recognizing Bangladesh was made possible by a combination of creative argumentation and the action of withdrawal of Indian troops. So, recognition happened (at least for some states) because of the argumentation and withdrawal. Also, withdrawal happened because of India's and Bangladesh's desire to legitimate recognition.

What are the observable implications of these claims, given the theory outlined above? First, we should see explicit linking of the action (i.e. withdrawal) with the policy (i.e. recognition).

Actors might say something like, "We have to do this (the action) so that the others can / will do

that (the policy)”, or “We have done this (the action), so now you can / must do that (the policy)”. Second, we should see the recognition decision happen after the action that was adduced. Third, we should see explicit conditioning of the recognition decision on the action.

TABLE 1 HERE

Claimant Linking Action to Policy

After Mujib's meeting with Heath in London on 8 January, members of the UK government accepted that Indian troops were in Bangladesh with the agreement of the Bangladeshi government, and that they would be withdrawn. From this meeting onward the British, the Indians, and the Mujib administration argued that the prospective withdrawal of Indian troops meant that recognition of Bangladesh was now an acceptable policy.

By 18 January 1972, British diplomats were arguing to other governments that recognition could go ahead because “It seemed to us that the normal criteria for recognition were just about fulfilled and we did not regard the presence of Indian troops, particularly given what had been said in public by Sheikh Mujib about their status and their eventual withdrawal, as a serious obstacle”.⁸² In personal messages to state leaders, Heath argued that:

whatever view is taken of the manner of its creation, a new national entity is coming into being whose Government appears to command the general acceptance of the majority of the people. The maintenance of law and order is still, in the last resort, dependent upon the Indian Army, but their presence is accepted by the Government in Dacca and Mujib told me that, on his return, he would formally request the Army's withdrawal in

⁸² FCO 37/1020.

accordance with a phased and agreed plan.⁸³

The reference to the manner of Bangladesh's creation can only refer to the illegitimacy of India's use of force. In parliament sessions, at Foreign Ministry press conferences, and during Prime Minister's question time throughout January and February, the standard answers provided to questions about the presence of Indian troops, or the status of Bangladesh, were that Indian troops were in Bangladesh "by the will" of the government, or "at the request" of Mujib.

Conditioning of Policy Decision on Action

Prior to the Mujib-Heath meeting on 8 January 1972, only 2 states, India and Bhutan, had recognized the state of Bangladesh, and no states had done so since the end of the fighting and the ceasefire declaration on 17 December 1971.⁸⁴ What were the stated reasons why some states denied or delayed recognition of Bangladesh?⁸⁵ There were four categories of reasons given to British officials on why recognition of Bangladesh might be a problem. One was that recognition might negatively affect the state's relations with Pakistan, and for some states, like Portugal and Hungary, this was their only stated concern. However, many states conditioned their recognition decision on an action related to Indian troop withdrawal and gave three different types of reasons for doing so. States also differed in the extent of troop withdrawal they required before recognition. See Table 2 for a full list of states, their stated reason for

⁸³ Initially the French President on 15 January 1972 (Letter from Heath to Pompidou, PREM 15/751) and eventually all other states (Douglas-Home telegram 21 January 1972, PREM 15/751).

⁸⁴ See Figure 2

⁸⁵ A frequent concern was that states had to recognize in a group, or on the same day as multiple other states. However, even allowing for minor coordination problems, this in and of itself cannot explain the length of time taken to make recognition decisions and declarations.

conditioning recognition on withdrawal (if any can be identified), and what recognition was conditioned on (whether actual withdrawal or a proxy).

TABLE 2 HERE

The first type of reason, opposition to condoning or legitimizing aggression, is labeled as “Non-aggression”. A good example comes from the Mexican Foreign Minister Emilio Óscar Rabasa who reported that the Mexican president had decided not to recognize Bangladesh because,

“Since the Mexicans, like many Latin Americans, refuse to condone territorial aggrandizement as a result of war, they would prefer to wait on the withdrawal of Indian troops as the sign of true independence.”⁸⁶

This statement also appeals to “true independence”. Self-determination is another important value expressed by the Mexican representative and is the second type of reason commonly appealed to as justifying recognition as Bangladesh. For example, Australia’s justification of its decision to recognize Bangladesh includes that “there was no doubt of the breadth and depth of the support which Sheikh Mujib’s Government enjoyed among the people of Bangla Desh.”⁸⁷

The third type of reason was whether the Mujib administration had control of the territory. This was part of the often cited “international legal criteria” and played a central part in several states’ reasoning. For example, Mitchell Sharp, Canadian Minister of Foreign Affairs, worried about

⁸⁶ FCO 37/1020

⁸⁷ Telegram from James, 1 February 1972, FCO 37/1023

“the question that is concerning everyone, namely, is the govt that has been formed in Bangladesh really in authority and what is the effect of the presence of Indian troops.”⁸⁸

States also varied in what exactly they were conditioning their decision on. Many recognition decisions came after actions that were effectively proxies for the withdrawal of Indian troops.

While some states required actual verified withdrawal, others were willing to accept reassurances from the Bangladesh and Indian governments. For the UK, Mujib’s assurance that Indian troops were in Bangladesh “at his behest and [that] the Indian Government has undertaken to withdraw them at his request”, was enough.⁸⁹ Ever since Mujib’s meeting with UK Prime Minister Heath on 8 January, in which Mujib pledged to request the withdrawal of Indian troops as soon as possible, the UK government had been explicitly linking Mujib’s pledge with the recognition of Bangladesh. Previously, UK representatives had focused on the actual presence of Indian troops as a barrier to UK recognition when communicating with other governments, such as Germany⁹⁰ and Vietnam⁹¹. This was despite the fact that UK Foreign Minister Alec Douglas-Home had said, “The British interest lies in recognising Bangla Desh sooner rather than later. Once we have recognised, we shall be in a better position to seek to influence the general policies of the new government and to protect British interests in the area”. His reasoning was that it was “wrong to recognise for so long as the supreme authority in the territory of Bangla Desh is in practice exercised by the Indian Army commanders.”⁹² Once it was clear that “the Indian Army had

⁸⁸ Excerpts, 31 January 1972, FCO 37/1024

⁸⁹ Telegram 29 January 1972, PREM 15/751

⁹⁰ Memo by Daunt FCO 37/902

⁹¹ memo 5 January 1972, FCO 37/1019

⁹² DOP (71) 89, CAB 148/117. Defense and Overseas Policy Committee, Cabinet Office.

begun to leave; and those elements which remained did so at the request of [Mujib]”, Douglas-Home informed the cabinet that the UK would recognize.⁹³ India also repeatedly and publicly stated that its army would leave at the request of Mujib.⁹⁴

Countries, like the UK, who stated that they were conditioning recognition on Mujib’s agreeing that Indian troops were in the country with Mujib’s permission are marked “Agreement” in Table 2. States conditioning their decision on a formal announcement by India and Bangladesh that Indian troops would be withdrawn (with an official timetable) are marked “Statement”. One example was Italy, whose minimal requirement was that there should be some public commitment to withdrawal. Lo Prinzi (The Chief of the Asian Desk in the Ministry of Foreign Affairs), initially said that, “[i]t would be helpful if, in the meantime, Mujib could announce a timetable for withdrawal”. Later he explicitly conditioned recognition on withdrawal: “Lo Prinzi said the Foreign Ministry were now thinking of recommending that an appeal be made to Mujib to announce at least a timetable for withdrawal. If Mujib did this the Italians would have no difficulty in recognising earlier.”⁹⁵ By 3 February, the Italians had decided to “put off” recognition without “some withdrawal or engagement to withdraw Indian troops”.⁹⁶ In the end, the Italians, along with the French, did not formally recognize Bangladesh until 12 February 1972, a few days after the joint Indian-Bangladeshi troop withdrawal declaration on 8 February. Similarly, the Secretary-General of the Malaysian Ministry of Foreign Affairs said that it was “difficult for countries like Malaysia in absence of any move by Mujibur to make even a token

⁹³ Extract from Cabinet Meeting (72) 4th Meeting, 27 January, FCO 37/1025

⁹⁴ see e.g. FCO 37/1020, 24 January Cable from Indian Embassy

⁹⁵ Telegram from Hancock, 27 January 1972, FCO 37/1023

⁹⁶ Letter from Roper to Sutherland, 3 February 1972, FCO 37/1024

reduction in the large Indian forces in Bangla Desh, or any positive statement about their withdrawal by the Indian Government.”⁹⁷ Canadian Prime Minister Pierre Trudeau asked Heath about withdrawal:

“I wonder what the outcome has been of Mujib's intention, as described to you, that on his return to Dacca he would formally request the Indian Army's withdrawal in accordance with a phased and agreed plan. I recall a joint statement of January 9, the day before he returned, that the Indian forces would be withdrawn at the request of the Government of Bangla Desh but there was no timetable mentioned. If we and other countries could obtain firm information about such a plan, it would no doubt assist us in our evaluation of the situation.”⁹⁸

Canada did not recognize Bangladesh until 14 February, after the 8 February joint Indian-Bangladesh declaration on troop withdrawal.

Finally, some states required confirmation of the full withdrawal of Indian troops before recognizing. These are marked “Withdrawal”. The sentiment was concisely stated by a senior Nigerian diplomat who explained that even though Indian assurances of withdrawal were assuring, they were not as assuring as withdrawal itself.⁹⁹

The US’s decisionmaking process was complicated by Nixon’s secretly organized visit to China in early 1972. The State Department had recommended that the US “position on recognition will depend inter alia on a commitment on withdrawal of Indian forces and the ability of the Bangla Desh government to assume the responsibilities and obligations of a sovereign and independent state.”¹⁰⁰ Henry Kissinger also included as a reason for delaying recognition of Bangladesh that, “We did not want to move too quickly in blessing the fruits of India's action... In any case,

⁹⁷ Telegram from Johnston 28 January 1972, FCO 37/1023

⁹⁸ letter 21 January 1972, PREM 15/751

⁹⁹ Telegram from Pickard, 1 February 1972, FCO 37/1024

¹⁰⁰ FRUS 1969-1976, E-7, 376.

Indian troops are scheduled to be withdrawn by March 25.”¹⁰¹ Subsequently, at the explicit behest of the Chinese,¹⁰² Nixon and Kissinger delayed recognition until 4th April, after Nixon had returned from China.

Timing of Action and Policy

In order for rhetorical adduction to be causally relevant to the policy at stake, the decision to support or adopt the policy should occur *after* the claimant has taken the action that legitimates the policy. As noted, states had different three types of action that they held to be a requirement for recognition. While not all states recognized Bangladesh after actual withdrawal had occurred, recognition decisions did follow the performance of the stated condition. For example, UK recognition followed Mujib’s insistence that Indian troops were there with his agreement, Italian and Canadian recognition came after the joint declaration of a timetable for withdrawing troops, and Nigerian recognition followed the declaration of actual withdrawal.

Alternative Explanations

What are the alternative explanations for why there was initially such opposition to recognizing Bangladesh combined with subsequent widespread recognition? One alternative explanation is that states were inclined to recognize Bangladeshi independence due to the nature of the post-election pre-war violence in East Pakistan. However, the evidence runs counter to this possibility. The massacres by the West Pakistani forces (the case was made by the Indian parliament that this “amounts to genocide”¹⁰³), were known about, being widely reported in the

¹⁰¹ FRUS 1969-1976, E-7, 396

¹⁰² FRUS 1969-1976 XI, 274.

¹⁰³ *New York Times*, 1 April 1971, 1.

mainstream press, like the *New York Times* and *The Sunday Times*.¹⁰⁴ However, this violence was simply not mentioned as a convincing reason for India's intervention. In fact, despite being well aware of their existence, no UN organ, like the Security Council or even the Sub-Commission on Prevention of Discrimination and Protection of Minorities or the Committee on Racial Discrimination, deliberately considered the massacres.¹⁰⁵ Wheeler analyzes the rhetoric used during the war to justify and judge Indian intervention in the context of the massacres in East Pakistan being a "supreme humanitarian emergency". He finds that despite recourse by India to humanitarian claims to classify its use of force as an exception to the rules, the society of states "emphatically rejected [those claims] as a legitimate basis for the use of force". Instead, "the Indian action was widely viewed as a breach of the rules that jeopardized the pillars of interstate order".¹⁰⁶ Bass's account of the telegram notifying the US government of the violence by the diplomat Archer Blood supports the claim that few held the violence a good reason for Indian intervention. Despite India's diplomatic efforts to rally support by citing the violence and the burden on India of the millions of refugees, other countries replied "with firm exhortations to avoid military confrontation with Pakistan".¹⁰⁷ Bass also argues that General Assembly resolution 2793 constituted a "worldwide repudiation of India's case for liberating Bangladesh".¹⁰⁸ Debnath's focused evaluation of the UK finds that despite some domestic

¹⁰⁴ E.g. *New York Times*, 30 March 1971, 10; *The Sunday Times*, 13 June 1971, 12-14.

¹⁰⁵ Salzburg 1973, 116-20

¹⁰⁶ Wheeler 2000, 71, 55.

¹⁰⁷ Bass 2013, 140

¹⁰⁸ Bass 2013, 285

pressure, the British government actively rejected a classification of the violence as genocide and she concludes that reports of atrocities played no role in decisionmaking.¹⁰⁹

Another alternative proposition is that there was an established set of rules, international law, that meant that there was no real need for contestation or argumentation (or rhetorical adduction), and the recognition of Bangladesh was merely a quasi-bureaucratic, rubber-stamp process of assessing whether the situation fit the criteria. Musson makes a related claim that, “The British decision to recognize Bangladesh in early 1972 rested almost entirely on the fulfillment of international criteria.”¹¹⁰ However, this possibility assumes a much deeper institutionalization of the norms governing secession and aggression than was the case. By contrast, the existing international law on the issues of recognition, secession, and the use of force were not conducive to allowing Bangladesh to become a state. According to Crawford, the general law is clear: unlawful use of force cannot create sovereignty, cannot make secession legal.¹¹¹ Shaw notes that Bangladesh is the only exception to the empirical rule that non-colonial secessions contrary to the consent of the mother state do not exist.¹¹² Effective control was at the time, and still is, a key principle in international law relevant to recognition of states and governments. However, after World War II, there was a substantial shift in recognizing practice away from effective control and towards normative principles as legitimate reasons for recognition, primarily anti-colonialism and self-determination.¹¹³ As Coggins finds, recognition of secessionist entities does

¹⁰⁹ Debnath 2011

¹¹⁰ Musson 2008, 139

¹¹¹ Crawford 2006, 131-148. He cites Bangladesh as only a *possible* exception, in that it is “an entity created by external illegal force [that] could be genuinely independent in fact” (134).

¹¹² Shaw 2003, 246

¹¹³ Fabry 2010

not in fact follow a narrow interpretation of the international law principle of effective control and instead seems to vary according to the preferences of great powers, including legitimizing the violation of the norm of territorial integrity.¹¹⁴

The other action explained as being driven by rhetorical adduction is the adduced action, the withdrawal of troops. One alternative argument is that prompt withdrawal was due to India facing the prospect of high occupation costs early on. This is not plausible because the inhabitants of East Pakistan were not resisting the Indian forces and frequently welcomed Indian troops as saving them from the violence directed against them by the West Pakistani military.¹¹⁵ Another alternative explanation is that Mujib wanted the troops to leave so that he would be less subject to pressure from the Indian government. In fact, the Mujib administration originally requested an Indian military presence, and invited Indian troops back into the country soon after withdrawal to assist the fledgling regime. Prior to Mujib's 8 January meeting with Heath, the Bangladeshi government position was that Indian army troops were essential to their plans. During a 6 January 1972 meeting between Indian government leaders, including Indira Gandhi and the Indian Defense Minister, Jagjivan Ram, and the Bangladeshi Foreign Minister Abdus Samad, there was discussion of security issues. Ram "conveyed India's desire to recall Indian forces from Bangla Desh as soon as possible". Samad resisted, emphasizing that "certain essential tasks still remain to be performed [by the] Indian Army". Samad then requested and was granted "full assistance in training of officers and men of Bangla Desh forces".¹¹⁶

¹¹⁴ Coggins 2013

¹¹⁵ Sisson and Rose 1990; Raghavan 2013

¹¹⁶ Garvey telegram 7 January 1972, PREM 15/751

The alternative explanations are not supported by the evidence and the rhetorical adduction model provides the best explanation of the move to recognition of Bangladesh. For many states, despite their initial objections, recognition of the new nation of Bangladesh was made acceptable by the withdrawal of Indian troops from Bangladesh. Britain, India, and Bangladesh argued successfully that withdrawal meant that recognition would not violate norms of non-aggression, self-determination, or the international legal norm of effective control of territory. So, both the withdrawal and many recognition decisions were driven by rhetorical adduction.

Conclusion

The rhetorical adduction model is applicable to a relatively specific set of conditions that come together to produce a particular process of argument, counterargument, adduced action, and policy adoption. If rhetorical adduction can bolster normative arguments, we should be interested in the conditions under which it works. What are some possible sources of variation in the operation of this mechanism?

A useful comparison to success in the Bangladesh case can be made with another set of arguments concerning the nonrecognition of Russia's annexation of the Crimean peninsula in 2014. The Crimean case is a useful comparison because it too involved arguments over territorial integrity, secession, and self-determination, as well as appeals to the international community for recognition. The question is why the primary argument deployed by Russia and Crimean separatists, that a referendum on the secession proved that it constituted self-determination, failed to gain any traction, even among relatively disinterested parties. As outlined above, a crucial element of rhetorical adduction is that, in order to be convincing, the

actions taken to support the argument must be a competent performance, i.e. in accordance with the intersubjectively-accepted conception of the action.

The attempt to support the argument that the Crimean secession and annexation was an act of self-determination by holding a referendum was clearly incompetent. This is despite the fact that many of the inhabitants of Crimea are Russian speakers, Crimea was a sovereign state in 1917, an autonomous Soviet Socialist Republic from 1921-1945, part of Russia from 1945-1954, and was an autonomous Republic within Ukraine from 1992.¹¹⁷ There was a potentially convincing argument to be made that transferal of Crimea from Ukraine to Russia was an act of self-determination. The Supreme Council of Crimea issued a declaration of independence on 11 March 2014 and subsequently held a referendum on whether Crimea should become part of Russia.¹¹⁸ Various Russian leaders, including Russian President Vladimir Putin during a telephone call to US President Barack Obama, asserted that the referendum was “legal and should be accepted”.¹¹⁹ The day after the referendum, Putin signed an Executive Order using the referendum as the sole justification for recognizing the Republic of Crimea.¹²⁰ However, there

¹¹⁷ Adam Taylor, “To understand Crimea, take a look back at its complicated history”, *The Washington Post*, 27 February 2014, <https://www.washingtonpost.com/news/worldviews/wp/2014/02/27/to-understand-crimea-take-a-look-back-at-its-complicated-history/>.

¹¹⁸ “Crimea Parliament Declares Independence from Ukraine ahead of Referendum”, *RT News*, March 13 2014, <http://rt.com/news/crimea-parliament-independence-ukraine-086>.

¹¹⁹ “Crimea votes to secede from Ukraine in 'illegal' poll”, *The Guardian*, 16 March 2014, <http://www.theguardian.com/world/2014/mar/16/ukraine-russia-truce-crimea-referendum>.

¹²⁰ It reads in part, “Given the declaration of will by the Crimean people in a nationwide referendum held on March 16, 2014, the Russian Federation is to recognise the Republic of Crimea as a sovereign and independent state”. <http://en.kremlin.ru/events/president/news/20596>.

were numerous objections to the referendum. Some of the most prominent concerned the form of the referendum (the questions, the timing, and its status under municipal law), the lack of independent election observers, the fact that intimidation and coercion were suspected due to the presence of armed Russian or pro-Russian forces, and doubts over the results.¹²¹ Numerous states and IOs claimed that the lack of “validity” of the referendum supported their argument against recognition, including in a UNSC draft resolution vetoed by Russia (S/2014/189), as well as the General Assembly Resolution 68/262 on the Territorial Integrity of Ukraine.¹²²

We can explain the failure of argumentation to change the normative status of the annexation of Crimea via the incompetent performance of the primary action taken as part of rhetorical adduction. An implication of this claim is that had the Crimean separatists conformed the referendum more closely to the intersubjective definition of a free and fair election, it would have been more convincing to the audience and much harder to dismiss by those implacably opposed to Russia’s actions.

¹²¹ UK Ambassador to Ukraine, Simon Smith, summarized these objections. Simon Smith, “Why should the Crimean Referendum not be recognised?” 17 March 2014, <http://blogs.fco.gov.uk/simonsmith/2014/03/17/why-should-the-crimean-referendum-not-be-recognised/>. The result as reported by the organizers of the referendum was 96.77% in favor of reunification with Russia, and a turnout of 83.1 percent. However, in May, the Russian President’s Human Rights Council released on its website a report, quickly withdrawn, that 50-60% voted for Russia with a voter turnout of 30-50%. (Paul Roderick Gregory, “Putin’s ‘Human Rights Council’ Accidentally Posts Real Crimean Election Results”, *Forbes*, May 5 2014, <http://www.forbes.com/sites/paulroderickgregory/2014/05/05/putins-human-rights-council-accidentally-posts-real-crimean-election-results-only-15-voted-for-annexation/>)

¹²² Grant 2015.

More speculatively, we can draw out several features of the situation that affect whether the full process of rhetorical adduction plays out. Only if the audience is valuable to the claimant and opposition is it worth trying to win their support. Only if the audience is relevant to the success of the policy will winning them over have any effect on whether the policy gets adopted. So, a source of variation is the value of the audience to the policy. The audience may vary in terms of how susceptible they are to a reframing of the situation. The more a situation is new or unprecedented, the more important rhetorical action is in constructing the properties of that situation, and hence the more consequential rhetorical adduction will be in bolstering the acceptability of a particular construction. Maybe there are principles at stake in the contestation. That is, some situations bear on questions that are relatively unsettled in society, where the norms and rhetorical commonplaces are relatively less taken-for-granted and hence more up-for-grabs. Another vital source of variation is the ability of the arguer and counterarguer to come up with socially sustainable arguments and counterarguments within the constraints of the intersubjective stock of background knowledge and rhetorical commonplaces. We as scholars may be able to spend large amounts of time and effort coming up with plausible frames of situations, but even so the ingenuity of political actors in trying to construe events and ideas to their advantage is constantly surprising. The character and skill of individual people is another source of variation in the potential for rhetorical adduction both to be attempted and to be successful or otherwise.

This article proposes a specific type of mechanism via which normative argumentation can have a causal impact on important actions in international politics. In doing so, it both adds to those already identified, e.g. persuasion, rhetorical entrapment, and rhetorical coercion, and also provides avenues for further exploration of how rhetoric and argumentation shape the actions of

states. By linking reason-based choice theory with argumentation theory, the article provides an enriched framework for understanding what effects argumentation can have and how it has them. Thus it both avoids obscuring argumentation's impact by limiting it to those rare situations of power- and interest-free truth-seeking, and also allows for the detailed specification of other types of effects. This paper uses the idea of changing an action's normative status, such as redefinition as an excused exception to a norm, but there are plausibly many other ways of influencing the reasons for or against an action. There is much room for further research on this topic.

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Table 1. Observable Implications

Category of Evidence	Summary of Evidence
Claimant linking action to policy	The UK as well as India and Bangladesh actively made the case to other states that Indian troop withdrawal would mean that recognition of Bangladesh was acceptable and legitimate and in accordance with international norms
Conditioning of policy decision on action	At least 26 states explicitly stated that they would not recognize either until Indian troops had been withdrawn or until India committed publicly to withdraw
Action before policy	No states, other than India and Bhutan, recognized Bangladesh until Mujib publicly stated that Indian troops were in the country at his request and that he would ask them to leave

Table 1.

Table 2. Conditioning Recognition on Indian Troop Withdrawal

State	Stated reason(s)	Stated condition	Reference
Argentina	Other	Withdrawal	FCO 37/1020
Australia	Control of territory, Self-determination	Statement	PREM 15/751; FCO 37/1023
Belgium	Non-aggression	-	S/PV. 1607: 222
Burundi	Non-aggression	-	S/PV. 1621: 56
Canada	Control of territory	Statement	FCO 37/1020
Ceylon / Sri Lanka	Non-aggression	Statement	FCO 37/1020; FCO 37/1023
China	Non-aggression	Withdrawal	FRUS 69-76 XI: 274
Cyprus	Control of territory, Self-determination	Agreement	FCO 37/1020
France	Control of territory	Agreement	FCO 37/1019
Indonesia	Non-aggression, Control of territory	Statement	FCO 37/1020; FCO 37/1025
Ireland	-	-	FCO 37/1020
Italy	-	Statement	FCO 37/1023
Japan	-	-	FCO 37/1024
Malawi	Control of territory, Self-determination	Statement	FCO 37/1025
Malaysia	Non-aggression, Control of territory	Statement	FCO 37/1023
Mexico	Non-aggression, Self-determination	Withdrawal	FCO 37/1020
Nigeria	Other (secessionism)	Withdrawal	FCO 37/1024
Philippines	Other (secessionism)	Withdrawal	FCO 37/1023
Senegal	Control of territory	-	FCO 37/1020
Sierra Leone	-	Withdrawal	FCO 37/1025
Somalia	Non-aggression	-	S/PV. 1606: 240
Syria	-	-	S/PV. 1606: 374
Turkey	Control of territory	Withdrawal	FCO 37/1020
UK	Control of territory, Self-determination	Agreement	FCO 37/1020; PREM 15/751
US	Non-aggression, Other	Withdrawal	FRUS 69-76 XI: 315
USSR	-	Statement	FCO 37/902

FCO: UK Foreign and Commonwealth Offices Archives.

S/PV: United Nations Security Council Official Record.

PREM: UK Premiers Archives.

FRUS: Foreign Relations of the United States series.

Table 2.

Figure 1. The Process of Rhetorical Adduction

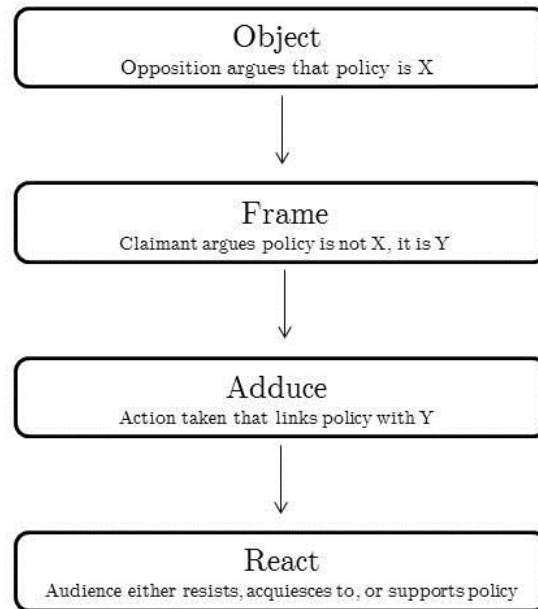


Figure 1.

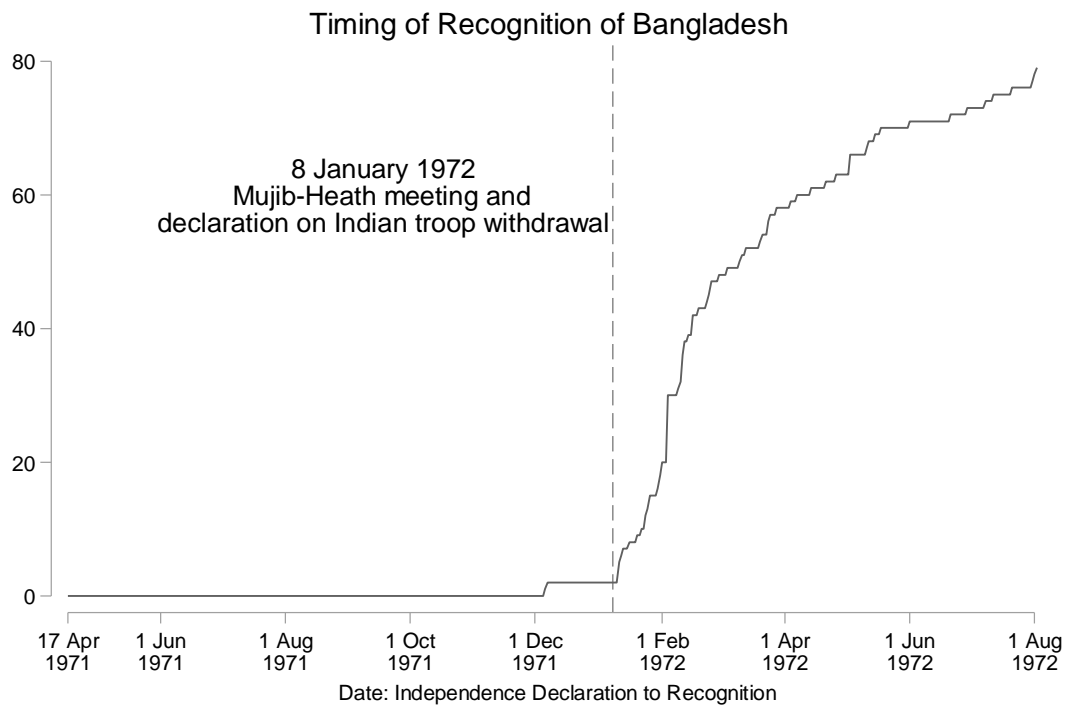


Figure 2.

Figure 3. Rhetorical Adduction and Recognizing Bangladesh

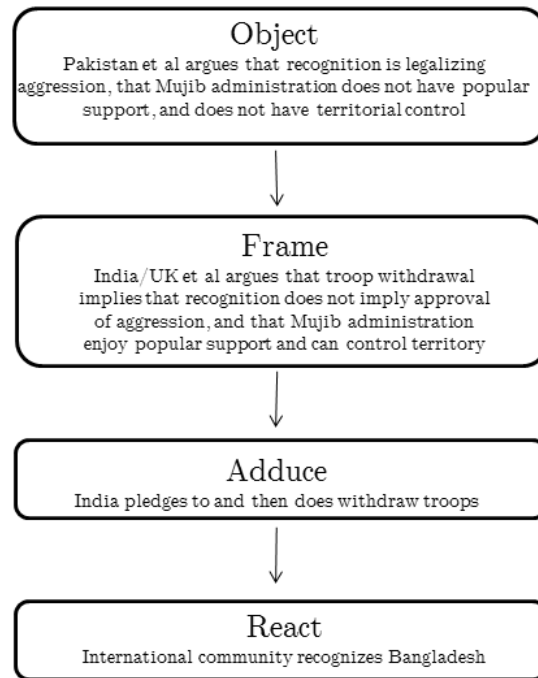


Figure 3.